

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ARDELL JENKINS,

Plaintiff,

v.

FEDERAL DETENTION CENTER SEA-  
TAC,

Defendant.

Case No. C14-1827-JCC-JPD

REPORT AND RECOMMENDATION

On November 24, 2014, plaintiff Ardell Jenkins submitted to this Court for filing a proposed civil rights complaint. (*See* Dkt. 1.) Plaintiff failed however to submit with his complaint either the \$400 filing fee or an application for leave to proceed with this action *in forma pauperis*. (*See id.*) Plaintiff was advised of this deficiency, and was given an opportunity to correct it, but he failed to do so in a timely fashion. (*See* Dkt. 2.) Thus, on March 23, 2015, this Court issued a Report and Recommendation recommending that this action be dismissed for failure to prosecute. (Dkt. 3.)

After the Report and Recommendation was issued, plaintiff submitted to the Court an application to proceed with this action *in forma pauperis*, thereby correcting the filing fee deficiency. (*See* Dkt. 4.) On May 5, 2015, the Honorable John C. Coughenour, United States

1 District Judge, issued an Order declining to adopt the Report and Recommendation, in light of  
2 plaintiff's submission of an application to proceed *in forma pauperis*, and referring the matter  
3 back to the undersigned for further proceedings. (Dkt. 5.) A copy of Judge Coughenour's Order  
4 was sent to plaintiff at his address of record, the Federal Transfer Center in Oklahoma City,  
5 Oklahoma. (*See id.*) On June 1, 2015, the copy of Judge Coughenour's Order directed to  
6 plaintiff at the Federal Transfer Center was returned to the Court with a notation apparently  
7 indicating that plaintiff had been moved to another facility, the Federal Medical Center in  
8 Butner, North Carolina. (Dkt. 9.)

9 On June 15, 2015, the Court received a notice of change of address from plaintiff in  
10 which he indicated that he had been moved to a facility in Fargo, North Dakota. (Dkt. 10.)  
11 Another copy of Judge Coughenour's Order was sent to plaintiff at that address. (*See id.*)  
12 However, on June 22, 2015, the Court received another notice of change of address from  
13 plaintiff, this time indicating that he had been moved to a facility in Moorhead, Minnesota. (Dkt.  
14 11.) On June 29, 2015, the copy of Judge Coughenour's Order mailed to plaintiff at the facility  
15 in North Dakota was returned to the Court, and a copy of that Order was then sent to plaintiff at  
16 the facility in Minnesota. (Dkt. 12.)

17 On May 19, 2015, before any of the mail directed to plaintiff had been returned to the  
18 Court, the undersigned issued an Order granting plaintiff's application to proceed *in forma*  
19 *pauperis* and an Order granting plaintiff leave to file an amended complaint, and those two  
20 Orders were sent to plaintiff at his address of record at that time, the Federal Transfer Center in  
21 Oklahoma. (*See* Dkts. 6 and 8.) On July 10, 2015, those Orders were returned to the Court  
22 because plaintiff was no longer at that facility. (*See* Dkt. 13.) On July 23, 2015, the undersigned  
23 issued a Minute Order directing the Clerk to resend copies of the Order granting plaintiff's

1 application to proceed *in forma pauperis* and the Order granting plaintiff leave to file an  
2 amended complaint to plaintiff at the facility in Minnesota. (See Dkt. 14.)

3 On July 24, 2015, the copy of Judge Coughenour's Order mailed to plaintiff at the facility  
4 in Minnesota was returned to the Court with a notation indicating that plaintiff was no longer in  
5 custody. (Dkt. 15.) On August 5, 2015, the copies of the undersigned's Orders mailed to  
6 plaintiff at the facility in Minnesota were also returned. (Dkt. 16.) To date, plaintiff has not  
7 provided the Court with an updated address.

8 Because over sixty days have passed since mail first directed to plaintiff at his address of  
9 record in Moorhead, Minnesota was returned by the post office, and because plaintiff has not  
10 notified the Court of his current address, this action should be dismissed, without prejudice, for  
11 failure to prosecute pursuant to Local Rule CR 41(b)(2). A proposed order accompanies this  
12 Report and Recommendation.

13 Objections to this Report and Recommendation, if any, should be filed with the Clerk and  
14 served upon all parties to this suit by no later than **October 20, 2015**. Failure to file objections  
15 within the specified time may affect your right to appeal. Objections should be noted for  
16 consideration on the District Judge's motion calendar for the third Friday after they are filed.  
17 Responses to objections may be filed within **fourteen (14)** days after service of objections. If no  
18 timely objections are filed, the matter will be ready for consideration by the District Judge on  
19 **October 23, 2015**.

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1 This Report and Recommendation is not an appealable order. Thus, a notice of appeal  
2 seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the  
3 assigned District Judge acts on this Report and Recommendation.

4 DATED this 29th day of September, 2015.

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6 JAMES P. DONOHUE  
7 Chief United States Magistrate Judge  
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